



Rep. Jack D. Franks

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1 AMENDMENT TO HOUSE BILL 1336

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1336 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Economic Development Board Act is  
5 amended by changing Sections 3 and 4 as follows:

6 (20 ILCS 3965/3) (from Ch. 127, par. 3953)

7 Sec. 3. Illinois Economic Development Board; composition.  
8 ~~The board shall be composed of citizens from both the private~~  
9 ~~and public sectors who are actively engaged in organizations~~  
10 ~~and businesses that support economic expansion, industry~~  
11 ~~enhancement and job creation.~~ The board shall be composed of 9  
12 members appointed by the Governor, with the advice and consent  
13 of the Senate. Each member shall have experience in accounting  
14 or finance. Members shall be appointed so that no more than 5  
15 members are affiliated with the same political party. ~~the~~  
16 ~~following persons:~~

- 1           ~~(a) the Governor or his or her designee;~~
- 2           ~~(b) four members of the General Assembly, one each~~  
3 ~~appointed by the President of the Senate, the Speaker of~~  
4 ~~the House of Representatives, and the minority leaders of~~  
5 ~~the Senate and House of Representatives;~~
- 6           ~~(c) 20 members appointed by the Governor including~~  
7 ~~representatives of small business, minority owned~~  
8 ~~companies, women owned companies, manufacturing, economic~~  
9 ~~development professionals, and citizens at large.~~
- 10          ~~(d) (blank);~~
- 11          ~~(e) (blank);~~
- 12          ~~(f) (blank);~~
- 13          ~~(g) (blank);~~
- 14          ~~(h) (blank);~~
- 15          ~~(i) (blank);~~
- 16          ~~(j) (blank);~~
- 17          ~~(k) (blank);~~
- 18          ~~(l) (blank);~~
- 19          ~~(m) (blank).~~

20           The Director of Commerce and Economic Opportunity, the  
21 Director of Revenue, and the State Treasurer shall serve as  
22 ex-officio members ~~an ex-officio member~~ of the board.

23           The Governor shall appoint the members of the board  
24 specified in subsection (c) of this Section, subject to the  
25 advice and consent of the Senate, within 30 days after the  
26 effective date of this amendatory Act of the 98th General

1 ~~Assembly Act~~. The first meeting of the board shall occur within  
2 60 days after the effective date of this amendatory Act of the  
3 98th General Assembly Act.

4 The Governor shall appoint a chairperson and a vice  
5 chairperson of the board. Members shall serve 8-year terms.  
6 ~~2-year terms. The position of a legislative member shall become~~  
7 ~~vacant if the member ceases to be a member of the General~~  
8 ~~Assembly.~~ A vacancy in a board position shall be filled by the  
9 original appointing authority.

10 The board shall include representation from each of the  
11 State's geographic areas.

12 The board shall meet quarterly or at the call of the chair  
13 and shall create subcommittees as needed to deal with specific  
14 issues and concerns. Members shall serve without compensation  
15 but may be reimbursed for expenses.

16 (Source: P.A. 94-793, eff. 5-19-06; 95-331, eff. 8-21-07.)

17 (20 ILCS 3965/4) (from Ch. 127, par. 3954)

18 Sec. 4. The board has the following responsibilities and  
19 powers:

20 (a) (blank); ~~to secure and encourage substantial private~~  
21 ~~sector, community and citizen support in the analysis of~~  
22 ~~economic development opportunities and development of specific~~  
23 ~~recommendations for economic growth;~~

24 (b) (blank); ~~to assist the Department's research efforts to~~  
25 ~~identify and analyze key businesses and industries to determine~~

1 ~~their potential for expansion, diversification and production~~  
2 ~~of value-added goods;~~

3 (c) (blank); ~~to propose an appropriate State role in new~~  
4 ~~product development, venture capital formation and research~~  
5 ~~and development;~~

6 (d) to evaluate the performance of existing State economic  
7 development efforts for consistency, effectiveness and  
8 coordination, as well as for their effect on job creation, and  
9 to evaluate the long-term benefits to the State of these  
10 efforts;

11 (e) (blank); ~~to propose, along with other State, local and~~  
12 ~~private groups, new methods to increase public and private~~  
13 ~~partnerships to foster economic development efforts;~~

14 (f) (blank); ~~assist the Department's efforts to develop a~~  
15 ~~long term economic development strategy based on consensus~~  
16 ~~goals and principles, an in depth analysis of market~~  
17 ~~opportunities, private sector support and investment, and~~  
18 ~~specific private and public economic development measures that~~  
19 ~~have a substantial potential to increase employment;~~

20 (g) (blank); ~~assist the Department's efforts to study the~~  
21 ~~key components of the State's business climate as they relate~~  
22 ~~to the long term development strategy including, but not~~  
23 ~~limited to, education and training, energy, existing~~  
24 ~~environmental conditions, research and development, capital,~~  
25 ~~land, transportation, advanced communications, taxes and~~  
26 ~~regulations with an analysis of their linkages to the State's~~

1 ~~economy;~~

2 (h) (blank); ~~to review the various economic development~~  
3 ~~policy recommendations made by other agencies or organizations~~  
4 ~~and recommend to the Governor and legislature those strategies,~~  
5 ~~policies and programs it deems to be in the best interest of~~  
6 ~~the State by January 1, 1991, and thereafter by January 1 of~~  
7 ~~each year; and~~

8 (i) (blank); ~~to make specific recommendations for the~~  
9 ~~establishment of public private cooperative efforts in~~  
10 ~~economic development and State local cooperative efforts,~~  
11 ~~including, but not limited to, the need for establishing formal~~  
12 ~~working relationships, whether by contract or otherwise, for~~  
13 ~~purposes of engaging in joint, cooperative economic~~  
14 ~~development activities.~~

15 (j) to approve or reject applications for credits under the  
16 Economic Development for a Growing Economy Tax Credit Act; and

17 (k) to evaluate whether or not credits awarded under the  
18 Economic Development for a Growing Economy Tax Credit Act are  
19 meeting their public policy objectives, and to make  
20 recommendations to the Department, the Governor, and the  
21 General Assembly for improvements to the Economic Development  
22 for a Growing Economy Tax Credit program.

23 (Source: P.A. 86-1430.)

24 Section 10. The Economic Development for a Growing Economy  
25 Tax Credit Act is amended by changing Sections 5-5, 5-10, 5-20,

1 5-25, 5-40, 5-45, 5-50, and 5-70 as follows:

2 (35 ILCS 10/5-5)

3 Sec. 5-5. Definitions. As used in this Act:

4 "Agreement" means the Agreement between a Taxpayer and the  
5 Department under the provisions of Section 5-50 of this Act.

6 "Applicant" means a Taxpayer that is operating a business  
7 located or that the Taxpayer plans to locate within the State  
8 of Illinois and that is engaged in interstate or intrastate  
9 commerce for the purpose of manufacturing, processing,  
10 assembling, warehousing, or distributing products, conducting  
11 research and development, providing tourism services,  
12 providing professional services, or providing services in  
13 interstate commerce, office industries, or agricultural  
14 processing, but excluding retail, retail food, or health,~~or~~  
15 ~~professional services~~. "Applicant" does not include a Taxpayer  
16 who closes or substantially reduces an operation at one  
17 location in the State and relocates substantially the same  
18 operation to another location in the State. This does not  
19 prohibit a Taxpayer from expanding its operations at another  
20 location in the State, provided that existing operations of a  
21 similar nature located within the State are not closed or  
22 substantially reduced. This also does not prohibit a Taxpayer  
23 from moving its operations from one location in the State to  
24 another location in the State for the purpose of expanding the  
25 operation provided that the Department determines that

1 expansion cannot reasonably be accommodated within the  
2 municipality in which the business is located, or in the case  
3 of a business located in an incorporated area of the county,  
4 within the county in which the business is located, after  
5 conferring with the chief elected official of the municipality  
6 or county and taking into consideration any evidence offered by  
7 the municipality or county regarding the ability to accommodate  
8 expansion within the municipality or county.

9 "Board" means the Illinois Economic Development Board  
10 created under Section 2 of the Illinois Economic Development  
11 Board Act.

12 ~~"Committee" means the Illinois Business Investment~~  
13 ~~Committee created under Section 5-25 of this Act within the~~  
14 ~~Illinois Economic Development Board.~~

15 "Credit" means the amount agreed to between the Department  
16 and Applicant under this Act, but not to exceed the Incremental  
17 Income Tax attributable to the Applicant's project or \$10,000  
18 per New Employee, whichever is less.

19 "Department" means the Department of Commerce and Economic  
20 Opportunity.

21 "Director" means the Director of Commerce and Economic  
22 Opportunity.

23 "Full-time Employee" means an individual who is employed  
24 for consideration for at least 35 hours each week or who  
25 renders any other standard of service generally accepted by  
26 industry custom or practice as full-time employment. An

1 individual for whom a W-2 is issued by a Professional Employer  
2 Organization (PEO) is a full-time employee if employed in the  
3 service of the Applicant for consideration for at least 35  
4 hours each week or who renders any other standard of service  
5 generally accepted by industry custom or practice as full-time  
6 employment to Applicant.

7 "Incremental Income Tax" means the total amount withheld  
8 during the taxable year from the compensation of New Employees  
9 under Article 7 of the Illinois Income Tax Act arising from  
10 employment at a project that is the subject of an Agreement.

11 "New Employee" means:

12 (a) A Full-time Employee first employed by a Taxpayer  
13 in the project that is the subject of an Agreement and who  
14 is hired after the Taxpayer enters into the tax credit  
15 Agreement.

16 (b) The term "New Employee" does not include:

17 (1) an employee of the Taxpayer who performs a job  
18 that was previously performed by another employee, if  
19 that job existed for at least 6 months before hiring  
20 the employee;

21 (2) an employee of the Taxpayer who was previously  
22 employed in Illinois by a Related Member of the  
23 Taxpayer and whose employment was shifted to the  
24 Taxpayer after the Taxpayer entered into the tax credit  
25 Agreement; or

26 (3) a child, grandchild, parent, or spouse, other

1           than a spouse who is legally separated from the  
2           individual, of any individual who has a direct or an  
3           indirect ownership interest of at least 5% in the  
4           profits, capital, or value of the Taxpayer.

5           (c) Notwithstanding paragraph (1) of subsection (b),  
6           an employee may be considered a New Employee under the  
7           Agreement if the employee performs a job that was  
8           previously performed by an employee who was:

9                   (1) treated under the Agreement as a New Employee;

10           and

11                   (2) promoted by the Taxpayer to another job.

12           (d) Notwithstanding subsection (a), the Department may  
13           award Credit to an Applicant with respect to an employee  
14           hired prior to the date of the Agreement if:

15                   (1) the Applicant is in receipt of a letter from  
16           the Department stating an intent to enter into a credit  
17           Agreement;

18                   (2) the letter described in paragraph (1) is issued  
19           by the Department not later than 15 days after the  
20           effective date of this Act; and

21                   (3) the employee was hired after the date the  
22           letter described in paragraph (1) was issued.

23           "Noncompliance Date" means, in the case of a Taxpayer that  
24           is not complying with the requirements of the Agreement or the  
25           provisions of this Act, the day following the last date upon  
26           which the Taxpayer was in compliance with the requirements of

1 the Agreement and the provisions of this Act, as determined by  
2 the Director, pursuant to Section 5-65.

3 "Pass Through Entity" means an entity that is exempt from  
4 the tax under subsection (b) or (c) of Section 205 of the  
5 Illinois Income Tax Act.

6 "Professional Employer Organization" (PEO) means an  
7 employee leasing company, as defined in Section 206.1(A)(2) of  
8 the Illinois Unemployment Insurance Act.

9 "Related Member" means a person that, with respect to the  
10 Taxpayer during any portion of the taxable year, is any one of  
11 the following:

12 (1) An individual stockholder, if the stockholder and  
13 the members of the stockholder's family (as defined in  
14 Section 318 of the Internal Revenue Code) own directly,  
15 indirectly, beneficially, or constructively, in the  
16 aggregate, at least 50% of the value of the Taxpayer's  
17 outstanding stock.

18 (2) A partnership, estate, or trust and any partner or  
19 beneficiary, if the partnership, estate, or trust, and its  
20 partners or beneficiaries own directly, indirectly,  
21 beneficially, or constructively, in the aggregate, at  
22 least 50% of the profits, capital, stock, or value of the  
23 Taxpayer.

24 (3) A corporation, and any party related to the  
25 corporation in a manner that would require an attribution  
26 of stock from the corporation to the party or from the

1 party to the corporation under the attribution rules of  
2 Section 318 of the Internal Revenue Code, if the Taxpayer  
3 owns directly, indirectly, beneficially, or constructively  
4 at least 50% of the value of the corporation's outstanding  
5 stock.

6 (4) A corporation and any party related to that  
7 corporation in a manner that would require an attribution  
8 of stock from the corporation to the party or from the  
9 party to the corporation under the attribution rules of  
10 Section 318 of the Internal Revenue Code, if the  
11 corporation and all such related parties own in the  
12 aggregate at least 50% of the profits, capital, stock, or  
13 value of the Taxpayer.

14 (5) A person to or from whom there is attribution of  
15 stock ownership in accordance with Section 1563(e) of the  
16 Internal Revenue Code, except, for purposes of determining  
17 whether a person is a Related Member under this paragraph,  
18 20% shall be substituted for 5% wherever 5% appears in  
19 Section 1563(e) of the Internal Revenue Code.

20 "Taxpayer" means an individual, corporation, partnership,  
21 or other entity that has any Illinois Income Tax liability.

22 (Source: P.A. 94-793, eff. 5-19-06; 95-375, eff. 8-23-07.)

23 (35 ILCS 10/5-10)

24 Sec. 5-10. Powers of the Department. The Department, in  
25 addition to those powers granted under the Civil Administrative

1 Code of Illinois, is granted and shall have all the powers  
2 necessary or convenient to carry out and effectuate the  
3 purposes and provisions of this Act, including, but not limited  
4 to, power and authority to:

5 (a) Promulgate procedures, rules, or regulations deemed  
6 necessary and appropriate for the administration of the  
7 programs; establish forms for applications, notifications,  
8 contracts, or any other agreements; and accept applications at  
9 any time during the year.

10 (b) Provide and assist Taxpayers pursuant to the provisions  
11 of this Act, and cooperate with Taxpayers that are parties to  
12 Agreements to promote, foster, and support economic  
13 development, capital investment, and job creation or retention  
14 within the State.

15 (c) Enter into agreements and memoranda of understanding  
16 for participation of and engage in cooperation with agencies of  
17 the federal government, local units of government,  
18 universities, research foundations or institutions, regional  
19 economic development corporations, or other organizations for  
20 the purposes of this Act.

21 (d) Gather information and conduct inquiries, in the manner  
22 and by the methods as it deems desirable, including without  
23 limitation, gathering information with respect to Applicants  
24 for the purpose of making any designations or certifications  
25 necessary or desirable or to gather information to assist the  
26 Board ~~Committee~~ with any recommendation or guidance in the

1 furtherance of the purposes of this Act.

2 (e) Establish, negotiate and effectuate any term,  
3 agreement or other document with any person, necessary or  
4 appropriate to accomplish the purposes of this Act; and to  
5 consent, subject to the provisions of any Agreement with  
6 another party, to the modification or restructuring of any  
7 Agreement to which the Department is a party, provided that all  
8 Agreements entered into on or after the effective date of this  
9 amendatory Act of the 98th General Assembly, and all  
10 modifications to or restructuring of Agreements occurring on or  
11 after the effective date of this amendatory Act of the 98th  
12 General Assembly, require the approval of the Board prior to  
13 implementation or continuing implementation.

14 (f) Fix, determine, charge, and collect any premiums, fees,  
15 charges, costs, and expenses from Applicants, including,  
16 without limitation, any application fees, commitment fees,  
17 program fees, financing charges, or publication fees as deemed  
18 appropriate to pay expenses necessary or incident to the  
19 administration, staffing, or operation in connection with the  
20 Department's or Board's ~~Committee's~~ activities under this Act,  
21 or for preparation, implementation, and enforcement of the  
22 terms of the Agreement, or for consultation, advisory and legal  
23 fees, and other costs; however, all fees and expenses incident  
24 thereto shall be the responsibility of the Applicant.

25 (g) Provide for sufficient personnel to permit  
26 administration, staffing, operation, and related support

1 required to adequately discharge its duties and  
2 responsibilities described in this Act from funds made  
3 available through charges to Applicants or from funds as may be  
4 appropriated by the General Assembly for the administration of  
5 this Act.

6 (h) Require Applicants, upon written request, to issue any  
7 necessary authorization to the appropriate federal, state, or  
8 local authority for the release of information concerning a  
9 project being considered under the provisions of this Act, with  
10 the information requested to include, but not be limited to,  
11 financial reports, returns, or records relating to the  
12 Taxpayers' or its project.

13 (i) Require that a Taxpayer shall at all times keep proper  
14 books of record and account in accordance with generally  
15 accepted accounting principles consistently applied, with the  
16 books, records, or papers related to the Agreement in the  
17 custody or control of the Taxpayer open for reasonable  
18 Department inspection and audits, and including, without  
19 limitation, the making of copies of the books, records, or  
20 papers, and the inspection or appraisal of any of the Taxpayer  
21 or project assets.

22 (j) Take whatever actions are necessary or appropriate to  
23 protect the State's interest in the event of bankruptcy,  
24 default, foreclosure, or noncompliance with the terms and  
25 conditions of financial assistance or participation required  
26 under this Act, including the power to sell, dispose, lease, or

1 rent, upon terms and conditions determined by the Director to  
2 be appropriate, real or personal property that the Department  
3 may receive as a result of these actions.

4 (Source: P.A. 91-476, eff. 8-11-99.)

5 (35 ILCS 10/5-20)

6 Sec. 5-20. Application for a project to create and retain  
7 new jobs.

8 (a) Any Taxpayer proposing a project located or planned to  
9 be located in Illinois may request consideration for  
10 designation of its project, ~~by formal written letter of request~~  
11 ~~or~~ by formal application to the Department, in which the  
12 Applicant states its intent ~~to make at least a specified level~~  
13 ~~of investment and intends~~ to hire or retain a specified number  
14 of full-time employees at a designated location in Illinois.  
15 The Department shall prepare a standard, formal, written  
16 application form for all Applicants. All Applicants who apply  
17 for Credits under this Act on or after the effective date of  
18 this amendatory Act of the 98th General Assembly shall complete  
19 that application. As circumstances require, the Department may  
20 require a formal application from an Applicant and a formal  
21 letter of request for assistance.

22 (b) In order to qualify for Credits under this Act, an  
23 Applicant's project must employ at least 25 New Employees  
24 within the State as a direct result of the project, except that  
25 (i) if the Applicant has 100 or fewer employees, then the

1 Applicant must employ at least 5 New Employees within the State  
2 as a direct result of the project, and (ii) if the Department  
3 and the Board determine that the project will provide a  
4 substantial economic benefit to the State, then the Applicant  
5 may employ fewer than 25 New Employees within the State. If an  
6 Applicant's project employs fewer than 25 New Employees under  
7 item (ii) of this subsection (b), then the Department and the  
8 Board must expressly specify the minimum number of New  
9 Employees that the Applicant is required to employ. If, in any  
10 taxable year during which an Agreement is in effect, the total  
11 number of employees employed by the Taxpayer in Illinois is  
12 less than the total number of employees employed the Taxpayer  
13 in Illinois during the previous taxable year, the Taxpayer  
14 shall be deemed to be in noncompliance with the Agreement.+

15 ~~(1) involve an investment of at least \$5,000,000 in~~  
16 ~~capital improvements to be placed in service and to employ~~  
17 ~~at least 25 New Employees within the State as a direct~~  
18 ~~result of the project;~~

19 ~~(2) involve an investment of at least an amount (to be~~  
20 ~~expressly specified by the Department and the Committee) in~~  
21 ~~capital improvements to be placed in service and will~~  
22 ~~employ at least an amount (to be expressly specified by the~~  
23 ~~Department and the Committee) of New Employees within the~~  
24 ~~State, provided that the Department and the Committee have~~  
25 ~~determined that the project will provide a substantial~~  
26 ~~economic benefit to the State; or~~

1           ~~(3) if the applicant has 100 or fewer employees,~~  
2           ~~involve an investment of at least \$1,000,000 in capital~~  
3           ~~improvements to be placed in service and to employ at least~~  
4           ~~5 New Employees within the State as a direct result of the~~  
5           ~~project.~~

6           (c) After receipt of an application, the Department may  
7           enter into an Agreement with the Applicant if the application  
8           is accepted in accordance with Section 5-25 and the Agreement  
9           is approved by the Board.

10          (Source: P.A. 93-882, eff. 1-1-05.)

11           (35 ILCS 10/5-25)

12           Sec. 5-25. Review of Application.

13           (a) In addition to those duties granted under the Illinois  
14           Economic Development Board Act, the Illinois Economic  
15           Development Board shall form a Business Investment Committee  
16           for the purpose of making recommendations for applications. At  
17           the request of the Board, the Director of Commerce and Economic  
18           Opportunity or his or her designee, the Director of the  
19           Governor's Office of Management and Budget or his or her  
20           designee, the Director of Revenue or his or her designee, the  
21           Director of Employment Security or his or her designee, and an  
22           elected official of the affected locality, such as the chair of  
23           the county board or the mayor, may serve as members of the  
24           Committee to assist with its analysis and deliberations. The  
25           Business Investment Committee shall be dissolved on the

1 effective date of this amendatory Act of the 98th General  
2 Assembly, and the duties and responsibilities of the Committee  
3 shall be assumed by the Board.

4 (b) At the Department's request, the Board ~~Committee~~ shall  
5 convene, make inquiries, and conduct studies in the manner and  
6 by the methods as it deems desirable, review information with  
7 respect to Applicants, and make recommendations for projects to  
8 benefit the State. In making its recommendation that an  
9 Applicant's application for Credit should or should not be  
10 accepted, which shall occur within a reasonable time frame as  
11 determined by the nature of the application, the Board  
12 ~~Committee~~ shall determine that all the following conditions  
13 exist:

14 (1) The Applicant ~~Applicant's project intends, as~~  
15 ~~required by subsection (b) of Section 5-20 to make the~~  
16 ~~required investment in the State and~~ intends to hire the  
17 required number of New Employees in Illinois as a result of  
18 that project.

19 (2) The Applicant's project is economically sound and  
20 will benefit the people of the State of Illinois by  
21 increasing opportunities for employment and strengthen the  
22 economy of Illinois.

23 (3) That, if not for the Credit, the project would not  
24 occur in Illinois, which may be demonstrated by any means  
25 including, but not limited to, evidence the Applicant has  
26 multi-state location options and could reasonably and

1       efficiently locate outside of the State, or demonstration  
2       that at least one other state is being considered for the  
3       project, or evidence the receipt of the Credit is a major  
4       factor in the Applicant's decision and that without the  
5       Credit, the Applicant likely would not create new jobs in  
6       Illinois, or demonstration that receiving the Credit is  
7       essential to the Applicant's decision to create or retain  
8       new jobs in the State.

9           (4) A cost differential is identified, using best  
10       available data, in the projected costs for the Applicant's  
11       project compared to the costs in the competing state,  
12       including the impact of the competing state's incentive  
13       programs. The competing state's incentive programs shall  
14       include state, local, private, and federal funds  
15       available.

16           (5) The political subdivisions affected by the project  
17       have committed local incentives with respect to the  
18       project, considering local ability to assist.

19           (6) Awarding the Credit will result in an overall  
20       positive fiscal impact to the State, as certified by the  
21       Board Committee using the best available data.

22           (7) The Credit is not prohibited by Section 5-35 of  
23       this Act.

24       (Source: P.A. 94-793, eff. 5-19-06.)

25           (35 ILCS 10/5-40)

1           Sec. 5-40. Determination of Amount of the Credit. In  
2 determining the amount of the Credit that should be awarded,  
3 the Board ~~Committee~~ shall provide guidance on, and the  
4 Department shall take into consideration, the following  
5 factors:

6           (1) The number and location of jobs created and  
7 retained in relation to the economy of the county where the  
8 projected investment is to occur.

9           (2) The potential impact on the economy of Illinois.

10          (3) The magnitude of the cost differential between  
11 Illinois and the competing state.

12          (4) The incremental payroll attributable to the  
13 project.

14          (5) (Blank). ~~The capital investment attributable to~~  
15 ~~the project.~~

16          (6) The amount of the average wage and benefits paid by  
17 the Applicant in relation to the wage and benefits of the  
18 area of the project.

19          (7) The costs to Illinois and the affected political  
20 subdivisions with respect to the project.

21          (8) The financial assistance that is otherwise  
22 provided by Illinois and the affected political  
23 subdivisions.

24          (9) Whether the Applicant's proposed credit per job is  
25 lower or higher than other past credits awarded.

26          (10) Whether the Applicant's proposed credit per job is

1           lower or higher than other Applicants.

2           (Source: P.A. 91-476, eff. 8-11-99.)

3           (35 ILCS 10/5-45)

4           Sec. 5-45. Amount and duration of the credit.

5           (a) Subject to the approval of the Board, the ~~The~~  
6           Department shall determine the amount and duration of the  
7           credit awarded under this Act. The duration of the credit may  
8           not exceed 5 ~~10~~ taxable years. The credit may be stated as a  
9           percentage of the Incremental Income Tax attributable to the  
10          applicant's project and may include a fixed dollar limitation.

11          (b) Notwithstanding subsection (a), and except as the  
12          credit may be applied in a carryover year pursuant to Section  
13          211(4) of the Illinois Income Tax Act, the credit may be  
14          applied against the State income tax liability in more than 10  
15          taxable years but not in more than 15 taxable years for an  
16          eligible business that (i) qualifies under this Act and the  
17          Corporate Headquarters Relocation Act and has in fact  
18          undertaken a qualifying project within the time frame specified  
19          by the Department of Commerce and Economic Opportunity under  
20          that Act, and (ii) applies against its State income tax  
21          liability, during the entire 15-year period, no more than 60%  
22          of the maximum credit per year that would otherwise be  
23          available under this Act.

24          (c) Notwithstanding any other provision of law, no more  
25          than \$100,000,000 in credits may be awarded under this Act in

1 State Fiscal Year 2014. In each State fiscal year thereafter,  
2 the total amount of credits that may be awarded under this Act  
3 shall be increased by the percentage increase, if any, in the  
4 Consumer Price Index for All Urban Consumers, as issued by the  
5 United States Department of Labor, Bureau of Labor Statistics,  
6 during the 12-month calendar year immediately preceding that  
7 State fiscal year. This limitation does not apply to amounts  
8 that are carried forward under Section 211 of the Illinois  
9 Income Tax Act.

10 (Source: P.A. 94-793, eff. 5-19-06.)

11 (35 ILCS 10/5-50)

12 Sec. 5-50. Contents of Agreements with Applicants. The  
13 Department shall enter into an Agreement with an Applicant that  
14 is awarded a Credit under this Act. The Agreement must include  
15 all of the following:

16 (1) A detailed description of the project that is the  
17 subject of the Agreement, including the location ~~and amount~~  
18 ~~of the investment~~ and the number of jobs created or  
19 retained.

20 (2) The duration of the Credit and the first taxable  
21 year for which the Credit may be claimed.

22 (3) The Credit amount that will be allowed for each  
23 taxable year.

24 (4) A requirement that the Taxpayer shall maintain  
25 operations at the project location that shall be stated as

1 a minimum number of years not to exceed 5 ~~10~~.

2 (5) A specific method for determining the number of New  
3 Employees employed during a taxable year.

4 (6) A requirement that the Taxpayer shall annually  
5 report to the Department the number of New Employees, the  
6 Incremental Income Tax withheld in connection with the New  
7 Employees, and any other information the Director needs to  
8 perform the Director's duties under this Act.

9 (7) A requirement that the Director is authorized to  
10 verify with the appropriate State agencies the amounts  
11 reported under paragraph (6), and after doing so shall  
12 issue a certificate to the Taxpayer stating that the  
13 amounts have been verified.

14 (8) A requirement that the Taxpayer shall provide  
15 written notification to the Director not more than 30 days  
16 after the Taxpayer makes or receives a proposal that would  
17 transfer the Taxpayer's State tax liability obligations to  
18 a successor Taxpayer.

19 (9) A detailed description of the number of New  
20 Employees to be hired, and the occupation and payroll of  
21 the full-time jobs to be created or retained as a result of  
22 the project.

23 (10) (Blank). ~~The minimum investment the business~~  
24 ~~enterprise will make in capital improvements, the time~~  
25 ~~period for placing the property in service, and the~~  
26 ~~designated location in Illinois for the investment.~~

1           (11) A requirement that the Taxpayer shall provide  
2 written notification to the Director and the Board  
3 ~~Committee~~ not more than 30 days after the Taxpayer  
4 determines that the minimum job creation or retention,  
5 employment payroll, or investment, if applicable, no  
6 longer is being or will be achieved or maintained as set  
7 forth in the terms and conditions of the Agreement.

8           (12) A provision that, if the total number of New  
9 Employees falls below a specified level, the allowance of  
10 Credit shall be suspended until the number of New Employees  
11 equals or exceeds the Agreement amount.

12           (13) A detailed description of the items for which the  
13 costs incurred by the Taxpayer will be included in the  
14 limitation on the Credit provided in Section 5-30.

15           (13.5) A provision that, if the Taxpayer never meets  
16 either the investment or job creation and retention  
17 requirements specified in the Agreement during the entire  
18 5-year period beginning on the first day of the first  
19 taxable year in which the Agreement is executed and ending  
20 on the last day of the fifth taxable year after the  
21 Agreement is executed, then the Agreement is automatically  
22 terminated on the last day of the fifth taxable year after  
23 the Agreement is executed and the Taxpayer is not entitled  
24 to the award of any credits for any of that 5-year period.

25           (14) Any other performance conditions or contract  
26 provisions as the Department determines are appropriate.

1           The Department shall post on its website the terms of each  
2 Agreement entered into under this Act on or after the effective  
3 date of this amendatory Act of the 97th General Assembly.

4           Any Agreement entered into on or after the effective date  
5 of this amendatory Act of the 98th General Assembly is subject  
6 to the approval of the Board. Any modifications to an existing  
7 Agreement that take effect on or after the effective date of  
8 this amendatory Act of the 98th General Assembly are subject to  
9 the approval of the Board. The Department must forward any  
10 proposed Agreements or modifications to the Board within 15  
11 days after the terms of the Agreement or modification are  
12 finalized.

13           (Source: P.A. 97-2, eff. 5-6-11; 97-749, eff. 7-6-12.)

14           (35 ILCS 10/5-70)

15           Sec. 5-70. Annual report. On or before July 1 each year,  
16 the Board Committee shall submit a report to the Department on  
17 the tax credit program under this Act to the Governor and the  
18 General Assembly. The report shall include information on the  
19 number of Agreements that were entered into under this Act  
20 during the preceding calendar year, a description of the  
21 project that is the subject of each Agreement, an update on the  
22 status of projects under Agreements entered into before the  
23 preceding calendar year, and the sum of the Credits awarded  
24 under this Act. A copy of the report shall be delivered to the  
25 Governor and to each member of the General Assembly and shall

1 be posted on the Department's website.

2 (Source: P.A. 91-476, eff. 8-11-99.)".